Maryland General Assembly
Department of Legislative Services

Proposed Regulations
Department of Housing and Community Development

(DLS Control No. 14-118)

Overview and Legal and Fiscal Impact

These regulations, in accordance with Chapter 82 of 2013, increase the maximum annual sum of contributions eligible for a tax credit that the Department of Housing and Community Development may grant under the Neighborhood and Community Assistance Program, and expand the types of districts within a priority funding area to which the department may give preferences under the program.

The regulations present no legal issue of concern.

There is no fiscal impact on State or local agencies.

Regulations of COMAR Affected

Department of Housing and Community Development:

Neighborhood and Community Assistance Programs: Community Investment Tax Credit Program: COMAR 05.14.01.03, .05, and .06

Legal Analysis

Background

The Neighborhood and Community Assistance Program, one of the State's original Smart Growth programs, was established in 1996 (Chapter 636) to authorize the granting of tax credits so as to encourage private sector donations to nonprofits that conduct community revitalization and social services projects in priority funding areas. Expansions of the program were made in 2006 (Chapter 447) to allow donations of real property in addition to goods and monetary donations, and in 2009 (Chapter 166) to authorize contributions from individuals as well as from businesses.

The program currently is operated as the Community Investment Tax Credit Program. The tax credit is 50% of an approved contribution in excess of $500 and can be claimed against personal, corporate, public service franchise, and insurance premium taxes. Originally, the maximum value of a tax credit was $125,000; since 2006, the maximum value has been $250,000.

Chapter 82 of 2013 further amended the program by: increasing, from $2,000,000 to $3,500,000, the maximum sum of contributions eligible for a tax credit for all approved projects in a fiscal year; and authorizing the department, when approving or disapproving a proposal from a nonprofit and determining the maximum amount of contributions eligible for tax credits, to give preference to a proposal that benefits a designated neighborhood conservation area as well as a sustainable community (originally a designated revitalization area) located within a priority funding area.

Summary of Regulations

The regulations update COMAR 05.14.01 in accordance with Chapter 82 of 2013. First, the maximum sum of contributions eligible for a tax credit for all approved projects in a fiscal year is increased from $2,000,000 to $3,500,000. Second, the regulations authorize the department to give preference to a proposal that benefits a designated neighborhood conservation area or a sustainable community when approving or disapproving a proposal from a nonprofit and determining the maximum amount of contributions eligible for tax credits. Related changes are made to include definitions for the terms “designated neighborhood conservation area” and “sustainable community.”

Legal Issue

The regulations present no legal issue of concern.

Statutory Authority and Legislative Intent

The department cites Title 6, Subtitle 4 of the Housing and Community Development Article as authority for the regulations. This subtitle establishes the Neighborhood and Community Assistance Program in the department for the purpose of: helping nonprofit organizations to carry out projects in priority funding areas; encouraging business entities and individuals to invest in priority funding areas; and strengthening partnerships between public and private entities. More specifically, § 6-404 provides for the amount of and approval process for a tax credit, and § 6-405 details the application requirements and approval process for a project of a nonprofit. Finally, § 6-406 specifically authorizes the department to adopt regulations to carry out the subtitle.

This authority is correct and complete. The regulations comply with the legislative intent of the law.

Fiscal Analysis

There is no fiscal impact on State or local agencies.

Agency Estimate of Projected Fiscal Impact

As the regulations merely implement the provisions of Chapter 82 of 2013, the department advises that the regulations have minimal or no economic impact. Chapter 82 increased the maximum sum of contributions eligible for a tax credit offered under the Department of Housing and Community Development’s Neighborhood and Community Assistance Program and also authorized the department to give preference to certain geographic areas when considering approval or disapproval of a proposal for a project under the program and in determining the maximum sum of contributions eligible for the tax credit. The

Department of Legislative Services concurs and notes that the impact has already been accounted for in the fiscal and policy note for Chapter 82 of 2013.

Impact on Budget

There is no impact on the State operating or capital budget.

Agency Estimate of Projected Small Business Impact

The department advises that the regulations have a meaningful beneficial impact on small businesses. The Department of Legislative Services disagrees and notes that any impact has already been accounted for in the fiscal and policy note for Chapter 82 of 2013.

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